THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.13098 of 1996

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Dated: 02.01.2006

Between:

D. Lingaiah, S/o Malaiah (E.No.39984), working as A.D.C., Karimnagar Depot-I, A.P.S.R.T.C., Karimnagar.

..... PETITIONER

AND

1 The Depot Manager, A.P.S.R.T.C., Nirmal, Adilabad District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.13098 of 1996

Order:

By this writ petition, the petitioner seeks a direction to the respondents-Corporation to fix his pay keeping in view the judgment dated 28.09.1988 passed in Writ Petition
No. 10240 of 1985 and to pay the arrears of Rs. 69,497.15 ps., with interest.

The petitioner, while working with the respondents- Corporation as Conductor was removed from service by order dated 18.04.1972. Against the said order,

the petitioner raised industrial dispute in I.D. No. 143 of 1980 before the Additional Industrial Tribunal-Cum-Labour Court, Hyderabad, and the Labour Court, vide award dated 11.03.1982, directed the respondents to reinstate the petitioner into service without any increments and back-wages. Pursuant to the said directions, respondents-Corporation reinstated the petitioner into service and his pay was fixed at Rs.605/-. Thereafter, an increment was also granted by fixing his salary at Rs.615/- as on 01.05.1984. While the matter stood thus, suddenly, the respondents-Corporation revised and reduced the pay scale of the petitioner and ordered for recovery of excess amounts paid to him. Aggrieved by the same, the petitioner filed Writ Petition No.10240 of 1985 and this Court, by order dated 28.09.1988, directed the respondents-Corporation to refund the amount already recovered from the petitioner. But, as the respondents-Corporation neither re-fixed his pay nor paid the arrears in terms of the judgment dated 28.09.1988 in Writ Petition No. 10240 of 1985, he filed Contempt Case No.457 of 1991, and when the same came up for hearing on 06.12.1991, the respondents-Corporation brought a cheque for an amount of Rs. 29,738.10 ps., but the petitioner received the same under protest as he is entitled to an amount of Rs.99,235.25 ps. However, the said Contempt Case was closed by order of this Court dated 06.12.1991 observing that if any other amounts are legitimately due, it is open to the petitioner to apply for being awarded those amounts and the contemnors shall consider them as per the rules. Subsequently, the petitioner made several representations to the authorities concerned for release of an amount of Rs. 69,497.15 ps. towards balance arrears, which became liable upon re-fixation of his pay, and alleges that no action was taken thereon. Hence, the present writ petition.

Even though the writ petition was admitted on 08.07.1996, no counter affidavit is filed by the respondents-Corporation denying the averments made by the petitioner in the affidavit filed in support of the writ petition, so far. Further, when the matter is taken up for hearing today, the learned Standing Counsel for the respondents-Corporation, though present, did not advance any arguments, obviously as there is no counter filed in the writ petition.

Pursuant to the orders passed by this Court in Contempt Case, the petitioner is said to have made several representations, and since his grievance was not attended to by the corporation, he is constrained to approach

this Court once again by filing the present writ petition, which he filed in the year 1996. It is very unfortunate to note that though the writ petition was admitted in February 1996, till date the respondent corporation has not chosen to file counter affidavit in the matter, and no purpose would be served in keeping the writ petition pending any further.

The grievance of the petitioner is that his pay was not fixed in terms of judgment of this Court in W.P. No. 10240 of 1985 dated 28.9.1988. In the absence of any counter filed by the respondents-corporation rebutting the allegations made in the affidavit filed in support of the writ petition, this Court has no other alternative, except to presume that the averments made in the writ petition, are true and correct, and the petitioner is entitled for the relief sought in the present writ petition.

Accordingly, the writ petition is allowed directing the respondents to fix the pay of the petitioner in terms of the judgment in Writ Petition No. 10240 of 1985 dated 28.09.1988 and to pay the arrears to the petitioner expeditiously. No costs.

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N.V. RAMANA, J.

Date: 02.01.2006

Tvk/Nsr